

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell.

Sierra Production Company

Docket No. CP01-416-001

ORDER AMENDING SECTION 3 AUTHORIZATION
AND AMENDING PRESIDENTIAL PERMIT

(Issued May 7, 2003)

1. On December 3, 2002, Sierra Production Company (Sierra) filed an application in Docket No. CP01-416-001, to amend the Presidential Permit issued to Sierra in a Commission order dated December 28, 2001.¹ In that order, Sierra was issued a Presidential Permit and Section 3 authorization to site, construct, operate, and maintain pipeline facilities at the United States/Canada border between Toole County, Montana and Alberta, Canada. Sierra indicated it would use the authorized facilities to import up to 5,000 Mcf/d of natural gas from its well in Southern Alberta into Montana. In the instant application, Sierra states that it has received requests from other producers in the vicinity of Sierra's well in Alberta to transport their respective gas production into Sierra's compression and sales facility in Toole County. Accordingly, Sierra states it seeks to amend its Presidential Permit to increase the transportation volume authorized from 5,000 Mcf/d to 12,000 Mcf/d. Approval of this request is in the public interest because the proposed amendment will increase natural gas supplies in the United States and benefit the general welfare of the related producers in Canada, as well as the related import parties in Toole County, Montana.

2. On March 4, 2003, the Commission sent copies of Sierra's application and a draft Amended Presidential Permit to the Secretary of State and the Secretary of Defense for their recommendations. Replies on behalf of the Secretary of State dated March 19, 2003, and Secretary of Defense dated April 3, 2003, indicate no objection to issuance of the

¹Sierra Production Company, 97 FERC ¶ 61,383 (2001).

amended Presidential Permit.² Accordingly, we will issue the amended Presidential Permit and amend the previously issued Section 3 authorization, as requested.

Notice and Interventions

3. Public notice of Sierra's proposal was published in the Federal Register on December 19, 2002 (67 Fed. Reg. 77764). Comments were due by January 3, 2003. No interventions were filed. The proceeding is unopposed.

Discussion

4. Sierra's request for authorization to increase the maximum volume to flow through its existing border facilities from 5,000 Mcf/d to 12,000 Mcf/d is subject to the jurisdiction of the Commission pursuant to Section 3 of the Natural Gas Act and authority delegated by the Secretary of Energy.³

5. The Commission has reviewed Sierra's application. The Commission's December 28, 2001 order authorized Sierra, pursuant to Section 3 of the Natural Gas Act, to construct and operate a meter station and approximately 1,786 feet of small 6-inch diameter pipeline extending from a gathering system and processing facility in the Sweetgrass Hills area of North Central Toole County to the United States/Canada border. That order also issued Sierra a Presidential Permit, Article 2 of which described the subject facilities in a similar manner. In its original application, Sierra indicated it planned to use the facilities to transport up to 5,000 Mcf/d of its own production. Sierra now states that it has received requests from adjacent producers to transport up to 12,000 Mcf/d, and that its existing border facilities can accommodate the additional volumes without modification.

6. We find that Sierra's proposal⁴ is not inconsistent with the public interest, provided that Sierra continues to adhere to the operation procedures described in its original

²The Amended Presidential Permit is attached as **Appendix A** to this order.

³In Delegation Order No. 00-004.00, 67 Fed. Reg. 8946 (February 27, 2002) (effective December 6, 2001), the Secretary of Energy delegated authority to perform certain functions with respect to the regulation of imports and exports of natural gas. See also Yukon Pacific Corporation, 39 FERC ¶ 61,216 (1987).

⁴Although Sierra's application only requested an amendment to its Presidential Permit, we will issue an amendment of our previous Section 3 authorization as well.

application as amended.⁵ Approval of Sierra's proposal would provide needed gas supplies into Montana, add to Canadian resource development, and benefit the public and businesses in the area. As noted above, the Secretaries of State and Defense, respectively, have stated no objection to the Commission's approval of an Amended Presidential Permit for Regent's proposal. Accordingly, we will issue amended Section 3 authorization and an amended Presidential Permit.

7. At a hearing held on April 30, 2003, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission orders:

(A) Sierra is issued amended Section 3 authorization and an amended Presidential Permit to site, construct, operate, and maintain the proposed natural gas pipeline facilities at the border of the United States and Canada in Toole County, Montana as described in the application and in the body of this order.

(B) The amended authorizations granted in Ordering Paragraph (A) are subject to Sierra's compliance with the conditions specified in the body of this order, and in the in the December 28, 2001 order in Docket No. CP01-416-000.

(C) Sierra shall sign and return the Testimony of Acceptance of all the provisions, conditions, and requirements of the Amended Presidential Permit to the Secretary of the Commission within 30 days of the issuance of this order.

(D) Sierra shall notify the Commission's environmental staff by telephone and/or facsimile of any environmental noncompliance identified by other Federal, state, or local

⁵As noted above, no change to the physical configuration of Sierra's cross-border facilities themselves would be necessary to accommodate the increased physical flow, and thus there will be no environmental impact as a result of the requested change.

agencies on the same day that such agency notifies Sierra. Sierra shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

Appendix

PERMIT AUTHORIZING SIERRA PRODUCTION COMPANY TO SITE, CONSTRUCT, OPERATE, AND MAINTAIN FACILITIES FOR THE IMPORTATION OF NATURAL GAS AT THE INTERNATIONAL BOUNDARY BETWEEN THE UNITED STATES AND CANADA

**FEDERAL ENERGY REGULATORY COMMISSION
DOCKET NO. CP01-416-001**

(Issued May 7, 2003)

Sierra Production Company (Permittee), a corporation organized and existing under the laws of the State of Nevada and licensed in the State of Montana, with its principal office located at Shelby, Montana, filed in Docket No. CP01-416-001 on December 3, 2002, an application pursuant to Executive Order Nos. 10485 and 12038 and the Secretary of Energy's Delegation Order No. 00-004.00, seeking to amend a Presidential Permit authorizing Permittee to site, construct, operate, and maintain facilities for the importation of natural gas at the international border between the United States and Canada in Toole County, Montana.

By letter dated March 19, 2003, the Secretary of State, and by letter April 3 2003, the Secretary of Defense, favorably recommended that the Amended Permit be granted. The Federal Energy Regulatory Commission finds that the issuance of an Amended Permit is appropriate and consistent with the public interest.

Pursuant to the provisions of Executive Order Nos. 10485 and 12038, dated September 3, 1953, and February 3, 1978, respectively, the Secretary of Energy's Delegation Order No. 00-004.00, effective December 6, 2001, and the Commission's Regulations, permission is granted to Permittee to cite, construct, operate, and maintain facilities for the importation of natural gas described in Article 2 below, upon the terms and conditions of the Amended Permit.

Article 1. It is expressly agreed by the Permittee that the facilities herein described shall be subject to all provisions and requirements of this Permit. This Permit may be modified or revoked by the President of the United States or the Federal Energy Regulatory Commission and may be amended by the Federal Energy Regulatory Commission upon proper application therefor.

Article 2. The following facilities are subject to this Permit:

A meter station and small, 6-inch gathering pipeline extending from a gathering system and processing facilities located in the Sweet Grass Hills area of North Central Toole County, Montana, for a distance of approximately 1,786 feet north to the United States/Canada Border. All the border-crossing facilities will be located in the Sweet Grass Hills area of North Central Toole County. The facilities will be utilized to import up to 12,000 Mcf per day of natural gas.

Article 3. The natural gas facilities authorized herein, or which may subsequently be included herein by modification or amendment, may be utilized for the transportation of natural gas between Canada and the United States only in the amount, at the rate, and in the manner authorized under Section 3 of the Natural Gas Act.

Article 4. The construction, operation, maintenance, and connection of the aforesaid facilities shall be subject to the inspection and approval of representatives of the United States. The Permittee shall allow officers and employees of the United States, showing proper credentials, free and unrestricted access to the land occupied by the facilities in the performance of their official duties.

Article 5. If in the future it should appear to the Secretary of the Army that any facilities or operations permitted hereunder cause unreasonable obstruction to the free navigation of any of the navigable waters of the United States, the Permittee may be required, upon notice from the Secretary of the Army, to remove or alter the same so as to render navigation through such waters free and unobstructed.

Article 6. The Permittee shall be liable for all damages occasioned to the property of others by the operation or maintenance of the facilities, and in no event shall the United States be liable therefor. The Permittee shall do everything reasonable within its power to prevent or suppress fires on or near land occupied under this Permit.

Article 7. The Permittee agrees to file with the Commission, under oath and in such detail as the Commission may require, such statements or reports with respect to the natural gas exported or the facilities described herein, as the Commission may, from time to time, request. Such information may be made available to any federal, state, or local agency requesting such information.

Article 8. Neither this Permit nor the facilities, nor any part thereof, covered by this Permit shall be voluntarily transferred in any manner, but the Permit shall continue in effect temporarily for a reasonable time in the event of the involuntary transfer of the facilities by operation of law (including transfer to receivers, trustees, or purchasers under

foreclosure or judicial sale) pending the making of an application for a permanent Permit and decision thereon, provided notice is promptly given in writing to the Commission accompanied by a statement that the facilities authorized by this Permit remain substantially the same as before the involuntary transfer. The Permittee shall maintain the facilities in a condition of repair for the efficient transportation of natural gas and shall make all necessary renewals and replacements.

Article 9. At such time that this Permit is surrendered, revoked, or otherwise terminated, the Commission shall determine which of the authorized facilities shall be removed and which shall remain in place. The Commission will specify the time within which any authorized facilities shall be removed, and the Permittee shall remove those facilities within such time and at the Permittee's expense. Upon failure of the Permittee to comply with the Commission's direction to remove any authorized facilities, the Commission may direct that possession of the same be taken and the facilities be removed at the Permittee's expense, and the Permittee shall have no claim for damages by reason of such possession or removal.

Article 10. The Permittee agrees that when, in the opinion of the President of the United States, evidenced by a written order addressed to it as holder of this Permit, the safety of the United States demands it, the United States shall have the right to enter upon and take possession of any of the facilities, or parts thereof, maintained or operated under this Permit, and all contracts covering the transportation or sale of natural gas by means of said facilities, to retain possession, management, and control thereof for such length of time as may appear to the President to be necessary to accomplish said purposes, and then to restore possession and control to the Permittee; and in the event that the United States shall exercise such right it shall pay the Permittee just and fair compensation for the use of said facilities upon the basis of a reasonable profit in time of peace, and the cost of restoring said facilities to as good condition as existed at the time of taking over thereof, less the reasonable value of any improvements that may be made thereto by the United States and which are valuable and serviceable to the Permittee.

Article 11. This Permit is subject to any action which the Government of the United States may in the future deem expedient or necessary to take in case any part of the aforesaid facilities comes into the control of any foreign government.

Article 12. The Government of the United States shall be entitled to the same or similar privileges as may by law, regulation, agreement, or otherwise, be granted by the Permittee to any foreign government.

Article 13. The Permittee will provide plans for the operation and maintenance of the facilities in Canada to the Commissioner for Canada, International Boundary Commission,

and to the United States Commissioner of the International Boundary Commission, for review and approval in order to assure that the construction, operation, and maintenance of the boundary crossing facilities are consistent with boundary and water treaties and other agreements in force between the United States and Canada.

By direction of the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

IN TESTIMONY OF ACCEPTANCE of all the provisions, conditions and requirements of this Permit, the Permittee this day of March ___, 2003 has caused its named to be signed by _____, pursuant to a resolution of its Board of Directors duly adopted on the ___ day of _____, 2003, a certified copy of the record of which is attached hereto.

Sierra Production Company

By _____

(Attest)

Executed in triplicate